

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

HEMLOCK SEMICONDUCTOR
CORPORATION,

Plaintiff,

v.

DEUTSCHE SOLAR GmbH,
f/k/a DEUTSCHE SOLAR AG,

Defendant.

Case No. 1:13-cv-11037-TLL-PTM

HON. THOMAS L. LUDINGTON

PLAINTIFF'S MOTION TO FILE EXHIBITS UNDER SEAL

Plaintiff Hemlock Semiconductor Corporation ("Hemlock") hereby moves that this court permit it to file certain exhibits in support of its Motion for Summary Judgment under seal.

1. On March 16, 2016, Hemlock filed its Motion for Summary Judgment. Within its Memorandum in Support of that motion, Hemlock referenced five exhibits that contain the parties' confidential information, protected by confidentiality agreements between Hemlock and Deutsche Solar. These exhibits include:

Exhibit 1: Long Term Supply Agreement I, with all amendments;

Exhibit 2: Long Term Supply Agreement II, with all amendments;

Exhibit 3: Long Term Supply Agreement III, with all amendments;

Exhibit 4: Long Term Supply Agreement IV, with all amendments;

Exhibit 10: Expert Report of John D. Finnerty, Ph. D., dated September 8, 2014.

2. Supply Agreement I, II, III, and IV each contain a confidentiality provision covering the terms and conditions of the agreements. Each of these exhibits refer to or include confidential information in accordance with these provisions. See also Dkt. No. 7 (granting Hemlock's Motion to Seal the Supply Agreement in connection with its Complaint); Dkt. No 42 (granting Hemlock's motion to seal the Supply Agreements in connection with other motion practice).

3. In addition, Exhibit 10 of Hemlock's Motion for Summary Judgment (the Expert Report of John D. Finnerty, Ph.D.) contains information taken from the financial statements of Hemlock and Hemlock-related entities, which contain nonpublic and highly sensitive information. See also Dkt. No 42 (granting Hemlock's prior motion to seal excerpts of Dr. Finnerty's Report).

4. The disclosure of the information in the foregoing exhibits would harm Hemlock and Deutsche Solar to the extent that such information is not publicly known or readily accessible. These documents contain highly sensitive pricing and financial information and other terms which, were they to be made public, could damage the parties' competitive advantages in the marketplace.

5. Because of the confidential nature of the information in these exhibits,

a means other than sealing is not available to protect Hemlock's interests in keeping this information private.

6. Hemlock requests this Court to order that Hemlock may file these exhibits under seal with the Court, pursuant to Eastern District of Michigan Local Rule 5.3(b).

WHEREFORE, Hemlock requests that it be allowed to file under seal Exhibits 1-4 and Exhibit 10 supporting its Motion for Summary Judgment and that these documents remain under seal until further order of the Court.

Dated: New York, New York
March 16, 2016

By: s/ Alvin Lee

ORRICK, HERRINGTON & SUTCLIFFE
LLP

J. Peter Coll, Jr.
John Ansbro
Alvin Lee
Daniel W. Robertson
51 West 52nd Street
New York, New York 10019
Telephone: (212) 506-5000
Facsimile: (212) 506-5151
pcoll@orrick.com
jansbro@orrick.com
drobertson@orrick.com
alee@orrick.com

BRAUN KENDRICK FINKBEINER PLC

Craig W. Horn

4301 Fashion Square Blvd.

Saginaw, Michigan 48603

Telephone: (989) 498-2100

Facsimile: (989) 799-4666

crahor@braunkendrick.com

*Attorneys for Plaintiff Hemlock
Semiconductor Corporation*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

HEMLOCK SEMICONDUCTOR
CORPORATION,

Plaintiff,

v.

DEUTSCHE SOLAR GmbH,
f/k/a DEUTSCHE SOLAR AG,

Defendant.

Case No. 1:13-cv-11037-TLL-CEB

HON. THOMAS L. LUDINGTON

**BRIEF SUPPORTING PLAINTIFF'S
MOTION TO FILE EXHIBITS UNDER SEAL**

On October 24, 2014, Hemlock filed its Motion for Summary Judgment. Within its briefing, Hemlock referenced a number of highly sensitive and confidential exhibits, specifically:

- Exhibit 1: Long Term Supply Agreement I, with all amendments;
- Exhibit 2: Long Term Supply Agreement II, with all amendments;
- Exhibit 3: Long Term Supply Agreement III, with all amendments;
- Exhibit 4: Long Term Supply Agreement IV, with all amendments; and
- Exhibit 10: Excerpts of the Expert Report of John D. Finnerty, Ph. D., dated September 8, 2014

Hemlock wishes to submit these documents to the Court in support of its Motion. Supply Agreement I, II, III, and IV each contain a confidentiality provision covering the terms and conditions of the agreements. In addition, Exhibit 10 supporting Hemlock's Motion for Summary Judgment contains financial statements and/or information from financial statements of Hemlock and Hemlock-related entities, which contain nonpublic and highly sensitive information.

The disclosure of the information in the foregoing exhibits would harm Hemlock and Deutsche Solar to the extent that such information is not publicly known or readily accessible. These documents contain highly sensitive pricing and financial information and other terms which, were they to be made public, could damage the parties' competitive advantages in the marketplace. Because of the confidential nature of the information in these exhibits, a means other than sealing is not available to protect Hemlock's interests in keeping this information private. Due to the fact that these documents contain confidential information protected by confidentiality provisions in the Supply Agreements, or other sensitive nonpublic commercial information, Hemlock respectfully asks the Court to allow these documents to be filed under seal.

Eastern District of Michigan Local Rule 5.2(b) expressly allows a court to seal items in a civil case by court order upon a motion to authorize the sealing. See

LR 5.2(b)(2).

WHEREFORE, Hemlock requests that it be allowed to file under seal Exhibits 1-4 and Exhibit 10 supporting Motion for Summary Judgment and that these documents remain under seal until further order of the Court.

Dated: New York, New York
March 16, 2016

By: s/ Alvin Lee

ORRICK, HERRINGTON & SUTCLIFFE
LLP

J. Peter Coll, Jr.
John Ansbro
Alvin Lee
Daniel W. Robertson
51 West 52nd Street
New York, New York 10019
Telephone: (212) 506-5000
Facsimile: (212) 506-5151
pcoll@orrick.com
jansbro@orrick.com
drobertson@orrick.com
alee@orrick.com

BRAUN KENDRICK FINKBEINER PLC

Craig W. Horn
4301 Fashion Square Blvd.
Saginaw, Michigan 48603
Telephone: (989) 498-2100
Facsimile: (989) 799-4666
crahor@braunkendrick.com

*Attorneys for Plaintiff Hemlock
Semiconductor Corporation*

